

1 Eric L. Christensen, WSBA No. 27934
2 Beveridge & Diamond P.C.
3 600 University Street, Suite 1601
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5 *Attorneys for Mark D. Waldron,*
6 *Chapter 11 Trustee*

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10 **UNITED STATES BANKRUPTCY COURT**
11 **EASTERN DISTRICT OF WASHINGTON**

12 In re:

13 GIGA WATT, Inc., a Washington
14 corporation,

15 Debtor.

Case No. 18-03197 FPC 11

The Honorable Frederick P. Corbit

Chapter 11

**EX PARTE ORDER FOR RULE 2004
EXAMINATION OF PUBLIC
UTILITY DISTRICT NO. 1 OF
DOUGLAS COUNTY,
WASHINGTON**

18 THIS MATTER having come before the Court on the motion of Mark D.
19 Waldron, in his official capacity as the Chapter 11 Trustee (the “**Trustee**”), who
20 desires to examine Public Utility District No. 1 of Douglas County, Washington,
21 and for cause having been shown, NOW THEREFORE, it is hereby

22
23 **EX PARTE ORDER FOR 2004 EXAMINATION**
24 **OF DOUGLAS COUNTY PUD - Page 1**

BEVERIDGE & DIAMOND P.C.
600 University St., Suite 1601
Seattle, WA 98101
206-315-4800

1 ORDERED that Public Utility District No. 1 of Douglas County,
2 Washington, shall produce to the Trustee and his designated counsel at the offices
3 of Beveridge & Diamond, PC, 600 University Street, Suite 1601, Seattle,
4 Washington, any and all documents in its possession, custody or control described
5 in **Exhibit A** attached hereto on or before Friday, September 4, 2020 at 12:00 p.m.
6 This order may be served upon Public Utility District No. 1 of Douglas County,
7 Washington, by email through its counsel Kathryn R. McKinley at
8 Kathryn.McKinley@paineamblen.com.

9 ///END OF ORDER///
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14 *Presented By:*

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23 EX PARTE ORDER FOR 2004 EXAMINATION
24 OF DOUGLAS COUNTY PUD - Page 2

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4 **EXHIBIT A**

5 **DEFINITIONS AND INSTRUCTIONS**

6 **I. INSTRUCTIONS**

7 1. Each request must be answered separately, under oath, and the response
8 must be signed by an attorney for that party. The responses and requested documents
9 must be furnished to the undersigned attorneys at their designated offices or via email
10 by September 4, 2020, or at such other time and place if mutually agreed to by
11 counsel.

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13 2. These requests are continuing in nature, and require you to provide
14 additional information as you, your attorneys, or anyone acting on your behalf or in
15 concert with you may have or may obtain between the time you serve answers to
16 these requests and the time of trial. In answering these requests, furnish all
17 information available to you or to your attorneys, including, but not limited to,
18 information possessed by any attorneys, agents, investigators, representatives, or
19 anyone acting in cooperation or in concert with the case to be presented by you.
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1 3. These requests call for all documents (including information contained
2 in or on writings, electronic documents, electronic mail, recordings, photographs, or
3 any other tangible thing or material) that is known or available to you, including all
4 documents in possession of your employees, agents, contractors, counsel, or other
5 representatives at the time of service of the responses.

6 4. Respond to each request separately and as completely as possible. The
7 fact that investigations may be continuing or that discovery has just begun shall not
8 excuse failure to respond to each request as fully as possible. The omission of any
9 name, fact, or other item of information from any response shall be deemed a
10 representation that such name, fact, or other item is not known to you, your agents,
11 counsel, or other representatives at the time of service of the responses.

12 5. If you object to or refuse to answer any of these requests, in whole or in
13 part, describe in detail the nature and basis of your objection or refusal to answer.
14 Any objection that is not timely asserted will be deemed waived.

15 6. You have a duty to conduct a reasonable investigation to obtain
16 information necessary to answer each request. If you cannot answer any of the
17 following requests in full after exercising due diligence to secure the information to
18 do so, answer to the fullest extent possible and specify your inability to answer the
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1 remainder, stating whatever information or knowledge you have concerning the
2 unanswered portion, and detailing any and all efforts made to answer the request.

3 7. If you claim a privilege with respect to any information sought in any
4 request, or any documents you are asked to produce, specify the grounds for asserting
5 privilege and specifically identify and describe the nature of the information you
6 claim to be privileged or protected.

7 8. In case of any ambiguity as to whether a document is responsive to these
8 requests, such information or document is to be produced.

9 9. The plural of any word used herein includes the singular, and the
10 singular includes the plural. The use of the masculine form of a pronoun also
11 embraces the feminine form of the pronoun and vice versa. As used herein, "and"
12 includes "or," and "or" includes "and."

13 **DEFINITIONS**

14 Unless negated by the context of the request, the following definitions apply
15 to all requests.

16 1. "Communication" or "Communications" means any manner or form of
17 information or message transmission, whether verbal or nonverbal, written or oral,
18 including any meeting, telephone call, video conference, conversation, letter,
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1 memorandum, text message, electronic mail, document, or other medium of
2 transmission.

3 2. “Documents” means any kind of written, printed, typed, recorded or
4 graphic matter of communication, however produced or reproduced; electronically
5 stored information of any kind or description, including without limitation e-mail
6 (whether sent, received, or neither), data, or other electronic information stored on
7 any computer medium (e.g., hard drive, network, diskette, flash drives, etc.), whether
8 or not such data has ever been printed on paper; correspondence, records, tables,
9 charts, papers, analyses, graphs, indexes, schedules, reports, memoranda, notes,
10 diaries, logs, change orders, letters, telegrams, messages (including but not limited to
11 reports of telephone conversations and conferences), studies, books, pamphlets,
12 periodicals, magazines, booklets, circulars, bulletins, instructions, minutes, other
13 communications (including without limitation inter- and intra-office
14 communications), contracts, memoranda of agreement, purchase agreements,
15 security agreements, promissory notes, bills of sale, assignments of copyright, letters
16 of credit, financing statements, appraisals, tax statements, options to purchase,
17 escrow agreements, orders, checks, vouchers, books of account, invoices, bills of
18 lading, notebooks, data sheets, data processing cards, wage statements, photographs,
19 photographic negatives, sound recordings, video recordings, brochures, and all other
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1 written matter of any kind; and any other data or compilation from which information
2 can be obtained and translated, if necessary.

3 Each request for a document or documents calls for the production of the
4 original document or documents to the extent that they are in or subject to your direct
5 or indirect possession, custody, or control. In addition, each request should be
6 considered as including all copies and, to the extent applicable, preliminary drafts of
7 documents which, as to content, differ in any respect from the original or final draft
8 or from each other (e.g., by reason of handwritten notes or comments having been
9 added to one copy of a document, but not on the original or other copies thereof).
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11 Electronically stored information should be produced in an accessible, native
12 format unless otherwise agreed to among counsel.

13 3. “Electric Infrastructure” means the 115-kV substation, transmission and
14 distribution lines, poles, switches, transformers, controls, and related equipment and
15 facilities that was planned and/or constructed to provide electric service to the
16 Pangborn Facility.
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18 4. “Giga Watt” means Giga Watt, Inc. (also sometimes referred to as
19 GigaWatt, Inc.), a Washington corporation that is the subject of this proceeding, and
20 includes any subsidiaries or other entities related to GigaWatt (including, but not
21 limited to Giga Watt Pte., GWT One, LLC, and Cryptonomos Pte. Ltd.), as well as
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1 the officers, directors, shareholders, employees, successors, and assigns, and any
2 persons, agents, consultants, contractors, or attorneys, who at any time acted by,
3 through, or on behalf of GigaWatt, Inc. or any of its subsidiaries or related entities.

4 5. “Interconnection and Service Agreement” means the Interconnection
5 and Service Agreement, dated March 7, 2017, between the PUD and Giga Watt,
6 including all attachments and amendments to that Agreement.

7
8 6. “Interlocal Agreement” means the Interlocal Agreement referenced in
9 Recital D of the Interconnection and Service Agreement, including all attachments
10 and amendments to that Agreement.

11 7. “January 7, 2019 Letter” means the letter from Gary Ivory, General
12 Manager of the PUD, to Chief Executive Officer, Giga Watt, Inc., re:
13 “Interconnection and Service Agreement (Highline and Eller) Termination,” dated
14 January 7, 2019.

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16 8. “October 12, 2018, Letter” means the letter from Gary Ivory, General
17 Manager of the PUD, to Chief Executive Officer, Giga Watt, Inc., re:
18 “Interconnection and Service Agreement, Section 20, Termination,” dated October
19 12, 2018.

20 9. “Pangborn Facility” means the GigaWatt facility to be constructed at
21 Lot 13 of the Pangborn Airport Business Park, which is defined as the “Customer

1 Facility” in the Interconnection and Service Agreement, and includes all Electric
2 Infrastructure that was constructed or planned for construction to provide service to
3 the GigaWatt facility at Lot 13 of the Pangborn Airport Business Park.

4 10. “Person” means, without limitation, any natural person or any business,
5 legal, or governmental entity or association, or any subdivision thereof.

6 11. “Port” means the Port of Douglas County, Washington, including on or
7 after the date it was consolidated with the Port of Chelan County, Washington, to
8 form the Chelan Douglas Regional Port Authority, and its Commissioners, officers,
9 directors, shareholders, employees, successors, and assigns, and any persons, agents,
10 consultants, contractors, or attorneys, who at any time have acted or are acting by,
11 through, or on behalf of the Port of Douglas County, Washington, or the Chelan
12 Douglas Regional Port Authority.
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14 12. “PUD” means Public Utility District No. 1 of Douglas County,
15 Washington, its Commissioners, officers, directors, shareholders, employees,
16 successors, and assigns, and any persons, agents, consultants, contractors, or
17 attorneys, who at any time have acted or are acting by, through, or on behalf of Public
18 Utility District No. 1 of Douglas County, Washington.
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1 13. “Relates to,” “Related to,” “Refer(s) to” and “Relating to” mean to
2 constitute, reflect, mention, evidence, concern, pertain to, summarize, analyze or in
3 any way logically or factually connected with the matter discussed.

4 14. “You,” “Your,” and “Yours” means the PUD.
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2 **REQUESTS FOR PRODUCTION**
3 **OF DOCUMENTS**

4 **REQUEST FOR PRODUCTION NO. 1:** Please provide all Documents
5 reflecting Communications between Giga Watt and the PUD Related to the Pangborn
6 Facility.

7 **RESPONSE:**

8 **REQUEST FOR PRODUCTION NO. 2:** Please provide all internal PUD
9 Communications Related to Giga Watt and/or the Pangborn Facility.

10 **RESPONSE:**

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12 **REQUEST FOR PRODUCTION NO. 3:** Please provide all Communications
13 between the PUD and the Port concerning Giga Watt and/or the Pangborn Facility.

14 **RESPONSE:**

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16 **REQUEST FOR PRODUCTION NO. 4:** Please provide all Documents
17 Related to the Interconnection and Service Agreement, including, but not limited to,
18 all drafts of, amendments to, and attachments to that Agreement, and all drafts of any
19 form contract that served as the basis for the Interconnection and Service Agreement,
20 and all communications related to that Agreement.

21 **RESPONSE:**

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2 **REQUEST FOR PRODUCTION NO. 5:** Please provide all contracts
3 between the PUD and other tenants of the Pangborn business park concerning
4 provision of electric infrastructure to serve those tenants and all drafts of any form
5 contract for service to leased premises in the Pangborn Airport Business Park or other
6 business parks

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8 **RESPONSE:**

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10 **REQUEST FOR PRODUCTION NO. 6:** Please provide all Documents
11 Relating to the Interlocal Agreement, including all final and draft versions of any
12 form contract from which the Interlocal Agreement was derived, and all
13 Communications between the PUD and the Port Relating to the Interlocal Agreement.

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15 **RESPONSE:**

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17 **REQUEST FOR PRODUCTION NO. 7:** Please provide all documents
18 Related to the action of the Board of Commissioners of the PUD in adopting the
19 Interlocal Agreement, including resolutions and draft resolutions, communications
20 between staff and Commissioners and among Commissioners regarding the Interlocal
21 Agreement and resolutions, and all materials related to any public meetings where
22 the Interlocal Agreement was discussed or adopted.

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24 **RESPONSE:**

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26 **REQUEST FOR PRODUCTION NO. 8:** Please provide all Documents
27 Relating to construction of the Electric Infrastructure, including, but not limited to,

1 all estimates, bid documents, contracts, plans, engineering Documents, permitting
2 Documents, and Communications between the Port, the PUD, and/or GigaWatt
3 regarding construction of the Electric Infrastructure.

4 **RESPONSE:**

5 **REQUEST FOR PRODUCTION NO. 9:** Please provide all Documents
6 regarding payment for the Electric Infrastructure, including all invoices provided to
7 GigaWatt and/or the Port and all notices to GigaWatt and/or the Port regarding unpaid
8 amounts alleged to be owed to the PUD for construction of the Electric Infrastructure,
9 including but, not limited to, invoices and other Documents related to the costs
10 incurred by the PUD for the construction of Electric Infrastructure, and all invoices
11 sent to the Port and/or Giga Watt by the PUD Related to payment for the Electric
12 Infrastructure, and all documentation concerning the \$310,329 plus interest claimed
13 in the October 12, 2018, Letter to be owed by Giga Watt to the PUD, and PUD invoice
number 4454, also referenced in the October 12, 2018 Letter.

14 **RESPONSE:**

15 **REQUEST FOR PRODUCTION NO. 10:** Please provide all Documents
16 Relating to the March 9, 2017, Land Lease (entitled “Land Lease for Portion of
17 Pangborn Airport Business Park, East Wenatchee, Washington”) and the August 9,
18 2017, Addendum to the Lease Agreement between Giga Watt and the Port, including
19 all Communications between the PUD and the Port and/or Giga Watt Relating to the
20 Land Lease or Addendum.

21 **RESPONSE:**

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2 **REQUEST FOR PRODUCTION NO. 11:** Please provide all Documents
3 Related to the grant or loan from the Economic Development Revitalization Board
4 referenced in the August 9, 2017, Addendum to the Lease Agreement referenced in
5 the previous Request for Production.

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7 **RESPONSE:**

8 **REQUEST FOR PRODUCTION NO. 12:** Please provide all Documents
9 Related to the October 12, 2018 Letter, including, but not limited to, all drafts of the
10 October 12, 2018 Letter, all Communications concerning the October 12, 2018 Letter,
11 and all Documents supporting the PUD's assertion that Giga Watt may not be able to
12 continue as a going concern, as referenced in the October 12, 2018 Letter.

13 **RESPONSE:**

14 **REQUEST FOR PRODUCTIO NO. 13:** Please provide all Documents
15 supporting the Port's claim of \$662,994.09, submitted as a proof of claim on February
16 15, 2019.

17 **RESPONSE:**

18 **REQUEST FOR PRODUCTION NO. 14:** Please provide all Documents
19 Related to any arrangement or understanding for Giga Watt to pay the PUD directly
20 for the Electric Infrastructure.

21 **RESPONSE:**

1 **REQUEST FOR PRODUCTION NO. 15:** Please provide all Documents
2 Related to any application for service received from Giga Watt for electric service at
3 the Pangborn Site, in accordance with Section 4 of Douglas PUD's Customer Service
4 Policies, and all communications related to that application for service.

5 **RESPONSE:**

6 **REQUEST FOR PRODUCTION NO. 16:** Please provide all Documents
7 Related to the Contribution in Aid of Construction ("CIAC") for the Electric
8 Infrastructure, including any agreements related to that CIAC between the PUD and
9 the Port and any such agreements between Giga Watt and the PUD, and any
10 Communications related to those agreements.

11 **RESPONSE:**

12 **REQUEST FOR PRODUCTION NO. 17:** Please provide all Documents
13 Related to applications for PUD service submitted by or contracts for PUD electric
14 service entered into with new large loads or new large interconnections, as defined in
15 the PUD's March 2014 moratorium on large interconnections, after March 2014,
16 including, but not limited to, (a) any such applications received from or contracts
17 entered into with any entities engaged in cryptocurrency businesses; (b) any such
18 applications received from or contracts entered into with any entities owning, leasing,
19 or operating data centers; and, (c) all Documents permitting PUD customers to obtain
20 energy and capacity from suppliers other than the PUD, including any such contracts
21 entered into under the PUD's Rate Schedule 4.

22 **RESPONSE:**

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2 **REQUEST FOR PRODUCTION NO. 18:** Please provide all Documents
3 Relating to PUD service to cryptocurrency businesses from March 2014 to the
4 present.

5 **RESPONSE:**

6 **REQUEST FOR PRODUCTION NO. 19:** Please provide all Documents
7 Related to the January 7, 2019 Letter, including, but not limited to, all drafts of the
8 January 7, 2019 Letter, all Communications concerning the January 7, 2019 Letter,
9 and all Documents supporting the PUD's assertion that it is owed significant amounts
10 by Giga Watt and that Giga Watt may not be able to continue as a going concern,
11 each as referenced in the January 7, 2019 Letter.

12 **RESPONSE:**

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DATED THIS ____ day of _____, 2020.

BEVERIDGE & DIAMOND, P.C.

Eric L. Christensen, WSBA No. 27934
600 University Street, Suite 1601
Seattle, WA 98101
Email: EChristensen@bdlaw.com
*Counsel for Mark D. Waldron,
in his official capacity as the Chapter 11
Trustee*

VERIFICATION

I, _____, declare:

That I am the authorized representative of the Public Utility District No. 1 of Douglas County, Washington, to whom these discovery requests are addressed; that I have read the foregoing responses to discovery requests, know the contents thereof, and believe the same to be true.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED on _____, 2020, at _____,
Washington.

Printed Name: _____
Title: _____

STATE OF WASHINGTON }
COUNTY OF DOUGLAS } ss.

On this _____ day of _____, 2020, before me personally appeared _____, to me known to be the _____ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she/they was/were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Signature

Print/Type Name
Notary Public in and for the State of
Washington,
residing at _____
My commission expires _____

EX PARTE ORDER FOR 2004 EXAMINATION
OF DOUGLAS COUNTY PUD - Page 18

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EX PARTE ORDER FOR 2004 EXAMINATION
OF DOUGLAS COUNTY PUD - Page 19

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